



**Medical Quality Assurance Commission
Friday October 18, 2007
Business Meeting Minutes**

Medical Commission Members

Cabell Tennis, Public Member, Chair
Les Burger, MD, 2nd Vice-Chair
Frederick H. Dore, Jr., MD
Ellen Harder, PA-C
Judith Page, Public Member -- Absent
Theresa Elders, Public Member
Anthony Robins, MD
Thomas Green, MD
Linda Ruiz, Public Member
Frank Hensley, Public Member

Samuel Selinger, MD, 1st Vice-Chair
Kenneth Cogen, MD
Susan Harvey, MD
Hampton Irwin, MD
Chelle Moat, MD
William Gotthold, MD
Judy Tobin, Public Member
Bruce Cullen, MD
Athalia Clower, PA-C
Jo Deevey, MD

Department of Health Staff:

Blake Maresh, Executive Director
Maryella Jansen, Deputy Exec Director
Michael Farrell, Staff Attorney

Beverly Thomas, Program Manager
George Heye, MD Medical Consultant
Erin Obenland, Disciplinary Manager

Others in Attendance

Pamela Anderson, AAG
Cesar Chavez, AAG
Kristi Brewer, AAG

Kim O'Neal, AAG
Susan Pierini, AAG

BUSINESS MEETING
CALL TO ORDER

Commission Chair Cabell Tennis, JD called the meeting of Washington State Medical Quality Assurance Commission (MQAC) to order at 1:30 p.m. on October 18, 2007, 2007 at the Red Lion Inn at the Quay, 100 Columbia Street, Vancouver Washington.

1.0 Consent Agenda

Beverly Thomas, Program Manager, requested that 1.3 Ratifications of Licenses be deferred until the November meeting as the license numbers had not been included in the packet. The consent agenda contained the following items for approval:

- 1.1** Agenda for October 18, 2007.
- 1.2** Minutes from the August 24, 2007, business meeting
- 1.3** Ratifications of Licenses - Deferred

MOTION: The Chair entertained a motion to approve the consent agenda as amended. The motion was seconded and approved

2.0 Department of Health Sanctioning Guidelines

The Commission considered whether or not to adopt the Sanctioning Guidelines developed by the Department of Health. The Sanctioning Guidelines were recommended to be adopted by all Boards and Commissions by the recent performance audit report and requested by Governor Gregoire. The Commission held a 4-hour training session on the process and procedures of the Sanctioning Guidelines provided by Sam Selinger, MD, 1st Vice Chair, Trent Kelly, Supervising Staff Attorney and Mike Farrell, Staff Attorney. Ms. Tobin informed the Commission that the Sanctions Committee will continue to review the DOH Sanctioning Guidelines to ensure they fit the needs of the Commission, or to make recommendations for revisions at a later date.

MOTION: The Chair entertained a motion to adopt the Department of Health Sanctioning Guidelines. The motion was seconded and unanimously approved for adoption.

3.0 Update on Mandatory Reporting Rules.

Diana Staley, Rules Coordinator provided information on the mandatory reporting rules process and timelines for all health care profession required by the 2006 legislature SHB2974. She reported on public meetings and the comments regarding the rules. Ms. Staley also indicated that once the rules are adopted there will be many professions rules that need to be repealed

Dr. Selinger expressed his concerns regarding those special programs or networks that help physicians in all aspects of well being. He indicated that these programs appear to not fall into the exemption categories such as the Washington Physician Health Program or hospital peer review groups. He asked that DOH consider these types of groups to be protected from the reporting requirements.

Ms. Staley reported that the next draft will be sent out for comments and asked that the Commission review the draft and provide comments.

4.0 Reports

4.1 Chair Report or Member Reports

The Chair reported the Executive Committee's continued work on the performance audit report and its impact to the Commission. He asked that the Commission's letter to Governor Gregoire be appended to the minutes.

Seattle, Washington 98112
206-720-1713
September 5, 2007

The Honorable Christine O. Gregoire
Office of the Governor
P.O. Box 40002
Olympia Washington 98504-0002

Dear Gov. Gregoire,

Thank you for your letter of August 27th. I have reviewed it and the audit from the State Auditor's Office with the Executive Committee of the Medical Quality Assurance Commission.

We strongly affirm your priority of patient safety, in our case with the practice of medicine by physicians and physician assistants in our State. We are appreciative of your appointment of us and the other members of the Commission and assure you that we are vigorously pursuing the work that the Legislature has given us to do and that you have appointed us to undertake.

Together with you we are very concerned that we licensed the right people, are timely and consistent in our action when patients are being harmed, and are diligent to make sure that physicians and physician assistants are being properly supervised when their ability to practice is restricted by us.

We want you to know that we are working to develop sanctioning guidelines. We have established a task force for this purpose. We expect to put in place a pilot program using the Department's guidelines in order to test its use in the complexities of modern medical practice. In fact, this will occur in our October meeting when we gather to review cases and consider appropriate sanctions.

We appreciate your affirmation of our making rules for sexual misconduct. These rules came out of our long experience of regulating physician behavior. We believe that we have lead the way among the boards and commissions in establishing appropriate and clear rules so that when we charge a person the prosecutory has a standards in WAC by which to prove the case. We believe that these rules as they are known by practitioners are making a difference in patient safety.

The Commission joins you in identifying the need to establish a rule authorizing staff to being investigations without the court requirement that only the Commission may order it. The rule process has been accomplished. Members of the Commission are meeting weekly with the staff as a case management team to review the complaints as they arrive and referred them to investigations where appropriate.

The Commission has had a practice since the '90s to be alert for cases of imminent danger. In fact, the Commission has led the way in developing case management teams as the audit commends. We hope to strengthen this so that delegated staff can initiate investigations and make a preliminary decision about cases that pose an imminent danger.

We are enthusiastic about your request for stronger reporting by both physicians and hospitals and other health-care institutions. We, of course, have jurisdiction only over physician whom hospitals know to be dangerous. This is perhaps a concern for legislative action as well as rulemaking. We think that significant penalties are needed. In any case we would hope to be involved in shaping rules as they relate to the practice of medicine.

One of the significant strengths of the Medical Quality Assurance Commission has been our use of compliance hearings since the '80s. In our orders we frequently require respondents to make personal appearance before the commission in order to review in a face-to-face session their compliance to the sanctions we have ordered. In many instances we can notice attitudinal changes and personal improvements in these physicians who have been allowed to continue in practice with severe restrictions. We would urge many of the other commissions to take a similar approach.

With regard to credentials we urge the wide use of the Federation of State Medical Boards unifying credentialing process that is national in scope. It makes sense for physician and physician assistants to use this resource creating a single credential that can be used to petition for licensing in various states and make request for privileges in hospitals.

We also believe that you would like some of the other activities in which we are engaged in order to more fully protect the public.

- The Commission has adopted a WAC to regulate the use of lasers. This rule is now³ in effect and we expect that it will reduce injuries to many of our citizens.
- We have also been pursuing vigorously the regulation of office-based surgery. There have been some difficulties in the Department structure to sort out what is regulating physicians and what is regulating facilities. Nevertheless, office based surgery is now a growing practice which is essentially unreported and unregulated. There is a significant public risk here.
- We also are developing and expect to perfect some sensible standards for re-licensing physicians who have been out of practice for some years. With rapid changes in medicine we must not overlook the possibility that persons who have been out of practice will need to assure the Commission of their competency before we license them to serve the people of Washington.

There are other areas of concern, both in discipline and regulation that we will be working on in the months and years ahead. We want you to know that every member of this Commission serves a committee or task force that is working on one or more of these important concerns. We need strong staff support for this effort.

Finally you are aware from our conversation with you last year of our need for a better working relationship with the Department of health who shares our concern for public safety and supports us in regulating and overseeing the practice of medicine. To that end we are committed to a process of mediation that we believe can increase positive communication and help each to better understand that needs, interests and concerns of the other. Any support you can give in this regard would be greatly appreciated by the Commission.

Sincerely,

Cabell Tennis, Chair

With the participated of the Executive Commission

Les Burger M.D., Thomas Green M.D., Ellen Harder PAC and, Frank Hensley Public Member, Hampton Irwin MD, Chelle Moat M.D., Samuel Selinger M.D., Judy Tobin Public Member.

Mr. Hensley and Ms. Tobin to reported on their attendance and testimony at the hearings regarding the audit.

4.2 Staff Reports

Blake Maresh, Executive Director reported on the upcoming mediation called a "Walk in the Woods", by Lenny Marcus on November 6, 2007 at the SeaTac Hilton. He also indicated there is an ongoing discussion as to who will be attending the meeting. Mr. Maresh also added that Mr. Marcus will be having conference calls with the attendees prior to the meetings. The Chair stated that although they are very supportive of the roles that Mr. Maresh, Ms. Jansen and Ms. Thomas have with the Commission, he has requested that they not be part of the mediation, as they do not have the authority to make decisions or outcomes.

4.3 AAG Reports – No report given.

5.0 Executive Session

The Chair called for an Executive Session to continue the discussions regarding personnel issues.

6.0 ADJOURNMENT

The Chair called the Executive Session closed and reported that the Executive Committee will write a letter to Laurie Jenkins, Deputy Secretary regarding their response to the Board and Commissions survey in support of their staff. He also stated that a letter will be sent to Governor Gregoire regarding the Sanctioning Guidelines being adopted. The Chair called the meeting to adjourn at 3:15 p.m.

Respectfully submitted by:

Beverly A. Thomas, Program Manager

Cabell Tennis, JD, Chair
Medical Quality Assurance Commission
Approved October 18, 2007